United Nations S/2003/546

Security Council

Distr.: General
16 May 2003

Original: English

Draft resolution

The Security Council,

Reaffirming its resolutions 827 (1993) of 25 May 1993, 1166 (1998) of 13 May 1998, 1329 (2000) of 30 November 2000, 1411 (2002) of 17 May 2002 and 1431 (2002) of 14 August 2002,

Having considered the letter from the Secretary-General to the President of the Security Council dated 18 March 2002 (S/2002/304) and the annexed letter from the President of the International Tribunal for the Former Yugoslavia addressed to the Secretary-General dated 12 March 2002,

Having considered also the letter from the Secretary-General to the President of the Security Council dated 7 May 2003 (S/2003/530) and the annexed letter from the President of the International Tribunal for the Former Yugoslavia addressed to the President of the Security Council dated 1 May 2003,

Convinced of the advisability of enhancing the powers of ad litem judges in the International Tribunal for the Former Yugoslavia so that, during the period of their appointment to a trial, they might also adjudicate in pre-trial proceedings in other cases, should the need arise and should they be in a position to do so,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to amend article 13 quater of the Statute of the International Tribunal for the Former Yugoslavia and to replace that article with the provisions set out in the annex to this resolution;

2. *Decides* to remain seized of the matter.

Annex

Article 13 quater
Status of ad litem judges

1. During the period in which they are appointed to serve in the International Tribunal, ad litem judges shall:

(a) Benefit from the same terms and conditions of service mutatis mutandis as the permanent judges of the International Tribunal;

(b) Enjoy, subject to paragraph 2 below, the same powers as the permanent judges of the International Tribunal;

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(c) Enjoy the privileges and immunities, exemptions and facilities of a judge of the International Tribunal;

(d) Enjoy the power to adjudicate in pre-trial proceedings in cases other than those that they have been appointed to try.

2. During the period in which they are appointed to serve in the International Tribunal, ad litem judges shall not:

(a) Be eligible for election as, or to vote in the election of, the President of the Tribunal or the Presiding Judge of a Trial Chamber pursuant to article 14 of the Statute;

(b) Have power:

(i) To adopt rules of procedure and evidence pursuant to article 15 of the Statute. They shall, however, be consulted before the adoption of those rules;

(ii) To review an indictment pursuant to article 19 of the Statute;

(iii) To consult with the President in relation to the assignment of judges pursuant to article 14 of the Statute or in relation to a pardon or commutation of sentence pursuant to article 28 of the Statute.

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Letter dated 16 May 2003 from the Permanent Representative of Georgia to the United Nations addressed to the President of the Security Council

I have the honour to write to you the context of the forthcoming consultations on the conflict in Abkhazia, Georgia, and, through you, to draw the attention of the Security Council to the developments in the conflict settlement process, as well as outstanding concerns.

Preceding this month's discussion, two important events have taken place — the high-level brainstorming session in Geneva, on 19 and 20 February 2003, of senior representatives of the Group of Friends of the Secretary-General and United Nations officials, and the Sochi meeting between the Presidents of Russia and Georgia, on 6 and 7 March 2003 — to give new impetus to the peace process in Abkhazia. The high-level session in Geneva set an important milestone in the process of conflict resolution in Abkhazia, Georgia: it reaffirmed the centrality of a political settlement on the basis of the paper on the distribution of constitutional competencies and provided for further institutionalization of the peace process by recommending the establishment of three task forces. The Sochi meeting and its outcome marked intensified efforts of the Russian Federation aimed at the revitalization of the process of settling the conflict in Abkhazia, in particular in terms of economic measures and the return of refugees.

In addition to these positive changes, there are areas of concern that merit the attention of the Security Council.

The United Nations-sponsored paper on the distribution of competencies, backed unanimously by the Security Council, still cannot find its way to the Abkhaz side. The Abkhaz side continues to obstruct the start of political negotiations on the basis of the paper and refuses to accept the document, maintaining that Abkhazia's independence is a fait accompli. In parallel, since 2001 the Abkhaz side has been refusing to participate in the meetings of the Coordinating Council. Recent statements of the Abkhaz side on its readiness to resume participation in the Coordinating Council proved yet again to be mere rhetoric aimed at stalling.

This situation is compounded by the process of illegally granting Russian citizenship to the population of Abkhazia, unlawful economic activities and the acquisition of properties in the region by physical and legal persons under the jurisdiction of the Russian Federation. These actions violate not only Georgian and Russian legislation, but also numerous decisions of the summits of the Commonwealth of Independent States.

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Furthermore, in breach of commitments made at the 1999 Istanbul summit of the Organization for Security and Cooperation in Europe, the Russian military base in Gudauta, in the zone of conflict, still continues to function.

All these actions violate Security Council resolutions on the conflict in Abkhazia, Georgia, in particular resolution 1462 (2003), in paragraph 2 of which the Council reaffirmed "the commitment of all Member States to the sovereignty, independence and territorial integrity of Georgia within its internationally recognized borders, and the necessity to define the status of Abkhazia within the State of Georgia in strict accordance with these principles".

As the situation in Abkhazia, Georgia, remains complex, we believe that only through the reinvigorated and strengthened United Nations-led peace process can we achieve a comprehensive settlement of the dispute. To this end, the implementation of the recommendations of the Geneva session of 19 and 20 February, which provided an overarching, all-inclusive structure for negotiations on political status, as well as on the situation of internally displaced persons and economic issues, could and should play an indispensable role.

In this respect, we appeal to the Group of Friends and the Special Representative of the Secretary-General to intensify efforts to make the best use of opportunities opened up by the brainstorming session in Geneva. This would provide for greater and more active involvement of the Security Council in the peace process in order to secure steady progress.

I should be grateful if you would have the text of the present letter circulated as a document of the Security Council.

(*Signed*) Dr. Revaz **Adamia**
Ambassador
Permanent Representative

United Nations A/ES-10/226–S/2003/548

General Assembly
Security Council

Distr.: General
16 May 2003

Original: English

General Assembly
Tenth emergency special session
Agenda item 5
Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory

Security Council
Fifty-eighth year

Identical letters dated 16 May 2003 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council

Israel, the occupying Power, continues to wage its bloody military campaign throughout the Occupied Palestinian Territory, including East Jerusalem. The occupying Power has relentlessly continued to commit war crimes, State terrorism and systematic human rights violations against the Palestinian people under its occupation. Since my last letter to you, dated 1 May 2003, the Israeli occupying forces have killed 34 Palestinian civilians, including 8 children, and wounded many others. It is also important to recall that since the official presentation of the Quartet's road map to peace on 30 April 2003, the Israeli occupying forces have killed 60 Palestinian civilians. This, obviously, reflects the determination of the Israeli Government to undermine the road map and obstruct any efforts to resume the peace process.

Yesterday, Thursday, 15 May, marked the fifty-fifth anniversary of Al-Nakba — the day the Palestinian people were uprooted from their homeland in 1948 amidst massacres, destruction and the devastation of war. As the Palestinian people solemnly commemorated the anniversary of this tragic day, the Israeli occupying forces continued to relentlessly unleash their brute force, killing five Palestinians, including three children. At the same time, scores of Palestinian civilians were injured, many seriously.

These above-mentioned killings took place in the early morning hours (Palestine time) of yesterday, when more than 50 Israeli tanks, supported by armoured vehicles, helicopter gunships and bulldozers, raided the northern town of Beit Hanoun in the Gaza Strip. One of the three children killed, Mohammed Al-Zaneen, was shot in the head by Israeli occupying forces and was left to bleed to death, as Israeli troops prevented paramedics from reaching the scene. The young boy was eventually carried to an ambulance and died on the way to the hospital. Also yesterday, Israeli occupying forces demolished four homes, leaving several Palestinian families homeless.

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The continuation of aggression committed by the Israeli occupying forces against the Palestinian people should be vigorously condemned by the international community. The current situation in the Occupied Palestinian Territory, including East Jerusalem, can only continue to deteriorate as long as Israel, the occupying Power, continues to believe that it can act against the Palestinian people under its occupation with impunity. As such, war crimes, State terrorism and systematic human rights violations will continue to be perpetrated by the Israeli occupying forces against the Palestinian people, inflicting only more harm, suffering and destruction. In this regard, we urge the international community to take the necessary measures to compel Israel to halt its military campaign and abide by international law and international humanitarian law, particularly the Fourth Geneva Convention of 12 August 1949.

This letter is in follow-up to our previous 164 letters to you regarding the ongoing crisis in the Occupied Palestinian Territory, including East Jerusalem, since 28 September 2000. These letters, dated from 29 September 2000 (A/55/432-S/2002/921) to 1 May 2003 (A/ES-10/225-S/2003/518), constitute a basic record of the crimes committed by the Israeli occupying forces against the Palestinian people since September 2000. For all of these war crimes, State terrorism and systematic human rights violations committed against the Palestinian people, Israel, the occupying Power, must be held accountable and the perpetrators must be brought to justice.

Accordingly, in follow-up to the above-mentioned letters, it is my deep regret to inform you that the 34 Palestinians killed by the Israeli occupying forces raises the total number of martyrs to 2,399 Palestinians. (The names of the martyrs that have been identified thus far are contained in the annex to the present letter).

I would be grateful if you would arrange to have the present letter and its annex distributed as a document of the tenth emergency special session of the General Assembly, under agenda item 5, and of the Security Council.

(*Signed*) Nasser **Al-Kidwa**
Ambassador
Permanent Observer of Palestine to the United Nations

Annex to the identical letters dated 16 May 2003 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council

Names of martyrs killed by Israeli occupying forces in the Occupied Palestinian Territory, including East Jerusalem*

Friday, 2 May through Friday, 16 May 2003

Friday, 2 May 2003

1. Awad Ahmed Abdallah Al-Saify (from wounds sustained on 11 April 2003)
2. Ranad Abdallah Al-Haj Qandas (17 years old)
3. Sharif Mahmoud Abu Al-Hasan

Saturday, 3 May 2003

Mohammed Zahi Hasan Hijazy

Wednesday, 7 May 2003

1. Amin Hamdan Fadel Minzilawy
2. Alyan Sa'ad Alyan Al-Bishiti
3. Ayman Eiz Eldin Ibrahim
4. Ahmed Issam Joudah (18 years old)

Thursday, 8 May 2003

1. Ikram Borham Hussein Quedeh (from wounds sustained on 29 April 2003)
2. Iyad Eissa Al-beek
3. Mohamed Atta Hafez Al-Shaer
4. Zaher Hasan Asa'd Al-Showaly
5. Ahmed Sief Al-Din Al-Hamshary (13 years old) (from wounds sustained on 10 April 2003)
6. Abdel Karim Jamil Afaneh

Monday, 12 May 2003

1. Mohammed Abdallah Abu Armaneh
2. Selim Saleh Al-Arja
3. Hassan Ahmed Al-Astal (18 years old)
4. Malek Zuhdi Yaseen (from wounds sustained on 6 September 2001)

* The total number of Palestinian martyrs killed by Israeli occupying forces since 28 September 2000 is 2,399.

Wednesday, 14 May 2003

1. Mohammed Khalil Thabit
2. Mohammed Mustafa Wishah
3. Fadl Ashoor Abu Atewi
4. Tayseer Yussef Abu Shihab
5. Dia' Naseef Ghawadreh (12 years old)

Thursday, 15 May 2003

1. Mohammed Nabil Mohammed Al-Zaneen (12 years old)
2. Khalil Mohammed Mahmoud Karmout
3. Nidal Atef Karim
4. Zuhair Khaled Abu Jarad (13 years old)
5. Abdel Qader Abu Alkas (16 years old)

Friday, 16 May 2003

Ahmed Mohammed Ismail Al-Nawajheh